

chemistry, immunochemistry (chemical immunology), and membrane chemistry.

These Committees will terminate on April 25, 1977.

Dated: May 19, 1975.

R. W. LAMONT-HAVERS,
Acting Director,
National Institutes of Health.

[FR Doc.75-13798 Filed 5-27-75; 8:45 am]

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES COUNCIL

Amended Notice of Meeting

Notice is hereby given of an addition to the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, which was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18829-30).

The Allergy and Immunology Subcommittee of the National Advisory Allergy and Infectious Diseases Council will meet on June 18, 1975, at 8:00 p.m., Conference Room 7A24, Building 31, National Institutes of Health, Bethesda, Maryland, for the review, discussion, and evaluation of individual initial pending, supplemental and renewal grant applications, and applications for National Research Service Awards. This meeting is necessary because more time is required to review the volume of applications assigned to this subcommittee than has already been provided for during the closed portion of the Council meeting on June 19, 1975.

The meeting will be closed to the public.

Dated: May 19, 1975.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.75-13799 Filed 5-27-75; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition No. HS-75-11]

ST. JOHNSBURY & LAMOILLE COUNTY RAILROAD

Petition for Exemption From Hours of Service Act

The St. Johnsbury & Lamoille Railroad has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. 61, 62, 63, and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-75-11, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before June 13, 1975, will be considered before

final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C., on May 19, 1975.

DONALD W. BENNETT,
Chief Counsel,

Federal Railroad Administration.

[FR Doc.75-13754 Filed 5-27-75; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27764]

FGH FINANCIAL CORP. AND McCULLOCH INTERNATIONAL AIRLINES, INC.

Stock Acquisition; Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on June 18, 1975, at 9:30 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., May 21, 1975.

[SEAL] BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc.75-13841 Filed 5-27-75; 8:45 am]

[Docket No. 26977]

NEW YORK-RIO-JOHANNESBURG CASE

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 4, 1975, at 2 p.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., May 21, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.13840 Filed 5-27-75; 8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

VOLUNTARY STANDARDS FOR FLAME-FIRED APPLIANCE

Meeting

Calspan Corporation, under contract to the Consumer Product Safety Commission, Bureau of Engineering Sciences, will conduct a conference to discuss the results of its review, under that contract, of existing voluntary standards for flame-fired furnaces, water heaters, ranges and clothes dryers. The conference will be held June 5, 1975 at Calspan Corporation, Buffalo, New York.

Topics to be presented include identified equipment hazards, safety criteria deficiencies and potential remedial action

The meeting is open, but attendance will be limited because of facility limitations. Persons desiring to attend should contact Mr. Al Bullerdiek, Calspan Corporation, (716) 632-7500. An agenda is available from Mr. Bullerdiek. Questions may also be directed to James P. Talantino, Bureau of Engineering Sciences, Consumer Product Safety Commission, (301) 496-7588.

Dated: May 22, 1975.

SADYE E. DUNN,
Secretary, Consumer Product
Safety Commission.

[FR Doc.75-13813 Filed 5-27-75; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 375-8]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

I. Introduction. On April 10, 1975, the Environmental Protection Agency, by notice published in the FEDERAL REGISTER (40 FR 16234), announced a public hearing pursuant to section 209(b) of the Clean Air Act (the "Act") as amended (42 U.S.C. 1857f-6a(a), 81 Stat. 501, Pub. L. 91-604), to consider a request by the State of California that the Administrator waive application of the prohibitions of section 209(a) of the Act to the State of California with respect to State emission standards applicable to 1977 model year light duty motor vehicles. Section 209(b) of the Act requires the Administrator to grant such waiver, after public hearing, unless he finds that the State of California does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions, or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed to be consistent with section 202(a) if adequate technology exists with which to meet them, and if adequate lead time is available in which to implement that technology.

The public hearing was held in Los Angeles, California, on April 29, 1975. The record was kept open until May 2, 1975, for the submission of written material, data or arguments by interested persons. I have determined that the statutory criteria of section 209(b) of the Act have been met, and therefore that I am compelled to grant the requested waiver of Federal preemption. The record of the hearing and the other evidence available to me clearly reveal that compelling and extraordinary conditions exist in the State of California, and that adequate technology and lead time are available to meet the 1977 model year California standards.

In addition to the action taken with respect to light duty vehicles, I am announcing today the disposition of several other questions regarding waiver of Federal preemption for the State of California concerning the 1976 assembly-line

test procedures and the 1977 model year light duty truck and heavy duty engine standards. These questions were not at issue in the April 29 hearing. The action taken in each case is described fully in Part IV of this decision.

II Background. I believe that it is appropriate at this time to trace the more recent past events connected with the California waiver question, in order to give a better understanding of the circumstances surrounding the waiver request being granted today.

Under the Clean Air Amendments of 1970, the Administrator was required to set standards for the 1975 model year for hydrocarbons (HC) and carbon monoxide (CO) to achieve a 93 percent reduction of those pollutants from the emission levels allowed under regulations then applicable to the 1970 model year, and also to set a standard for the 1976 model year for oxides of nitrogen (NOx) to achieve a similar reduction, as measured against 1971 model year vehicles. As a result, standards of .41 gram/mile HC, 3.4 grams/mile CO and .4 gram/mile NOx were promulgated as the ultimate statutory standards for those pollutants.

The 1970 amendments also provided that motor vehicle manufacturers could apply for a one-year suspension of these standards. Application was made in March of 1972 to suspend the HC and CO standards. After an initial denial and a court appeal resulting in a remand (see "International Harvester Co. v. Ruckelshaus," 478 F.2d 615 (D.C. Cir. 1973)), a suspension was granted for the 1975 model year on April 11, 1973, (see 38 FR 10317), and interim standards of 1.5 gm/mi HC and 15 gm/mi CO were established. On July 30, 1973, the 1976 model year statutory NOx standard of .4 gm/mi was suspended for one year and an interim standard of 2.0 gm/mi was established.

In the April 11 suspension decision, the Administrator also took action which resulted in emission standards applicable in California of .9 gm/mi HC, 9.0 gm/mi CO and 2.0 gm/mi NOx for the 1975 model year.

In June of 1974, the Act was amended to provide that (1) the 1975 Federal and California interim standards shall also be applicable to the 1976 model year, (2) the original statutory standards for HC and CO of .41 and 3.4 gm/mi respectively shall be applicable to the 1977 and subsequent model years, (3) an interim NOx standard of 2.0 gm/mi shall be applicable to the 1977 model year, (4) the original statutory NOx standard of .4 gm/mi shall be applicable to the 1978 and subsequent model years, and (5) any motor vehicle manufacturer may, at any time after January 1, 1975, apply for a one-year suspension of the imposition of the statutory HC and CO standards to the 1977 model year.

On January 2, 1975, application was made to EPA by three motor vehicle manufacturers for a one-year suspension of the 1977 HC and CO standards. On March 5, 1975, I granted the suspension and simultaneously established interim standards of 1.5 gm/mi HC and 15 gm/mi

CO. On March 17, 1975, California adopted 1977 standards of .41 gm/mi HC, 9.0 gm/mi CO and 1.5 gm/mi NOx, and on March 26, 1975, they requested a waiver of Federal preemption for these standards and for the accompanying test and enforcement procedures, including the assembly-line test procedures. It is that waiver request which is the subject of this decision.

III Discussion—Legal Criteria. Section 209 of the Clean Air Act was added to that statute by the Air Quality Act of 1967, Pub. L. 90-148, 81 Stat. 501, and has been preserved in the statute essentially unamended since then. It prohibits any state from establishing or enforcing emission standards for new motor vehicles unless it had adopted such standards prior to March 30, 1966. Only California meets this test. California, however, may establish and enforce such standards unless the Administrator of EPA, after notice and opportunity for hearing, finds either that California has not adopted more stringent standards "to meet compelling and extraordinary conditions" or that the "standards and accompanying enforcement procedures are not consistent with section 202(a)" of the Act.

These provisions must be read in the light of their unusually detailed and explicit legislative history. Three major points emerge from such a reading.

1. At the time the California waiver provision was adopted, Congress believed that "compelling and extraordinary conditions" existed in California. S. Rep. No. 403, 90th Cong., 1st Sess. 33 (1967) ("Senator Murphy convinced the committee that California's unique problems . . . justified a waiver"). 113 Cong. Rec. H 14404 (daily ed. Nov. 2, 1967) (Cong. Herlong) ("These are conditions specially tailored for California which California clearly meets").

2. Congress meant to ensure by the language it adopted that the Federal government would not second-guess the wisdom of state policy here. This appears most dramatically from the debates on the floor of the House over two alternative versions of the statutory language. One, sponsored by the relevant legislative committee, would have required the Federal government, upon application, to set special California standards if the two conditions set forth above were met; the second, which was sponsored by the entire California delegation, see 113 Cong. Rec. H 14428 (Cong. Moss) (daily ed. Nov. 2, 1967), and eventually adopted on the floor, would have required a waiver to be granted if the same two conditions were met.

Despite the understandable efforts of some sponsors of the committee language to portray the differences between the two versions as purely verbal, 113 Cong. Rec. H 14404 (Cong. Herlong); H 14432 (Cong. Rogers) (daily ed. Nov. 2, 1967), the majority of the House clearly disagreed. Sponsors of the language eventually adopted referred repeatedly to their intent to make sure that no "Federal bureaucrat" would be able to tell the people of California what auto

emission standards were good for them, as long as they were stricter than Federal standards. 113 Cong. Rec. H 14393 (Cong. Sisk); H 14395 (Cong. Smith); H 14396 (Cong. Hollifield); H 14399 (Cong. Hosmer); H 14408 (Cong. Roybal); H 14409 (Cong. Reinicke); H 14429 (Cong. Wilson) (daily ed. Nov. 2, 1967). They also viewed the change as necessary to their intent to preserve the California state auto emission control program in its original form, see H.R. Rep. No. 728, 90th Cong. 1st Sess. 96-97 (1967) (separate views of Congressmen Moss and Van Deeren), 113 Cong. Rec. H 14415 (daily ed. Nov. 2, 1967) (Cong. Van Deeren) and to continuing the national benefits that might flow from allowing California to continue to act as a pioneer in this field. 113 Cong. Rec. H 14407 (Cong. Moss) (daily ed. Nov. 2, 1967); S 16395 (daily ed. Nov. 14, 1967) (Senator Murphy).

These points had also previously been made by the Senate Public Works Committee in reporting out waiver language identical to that eventually adopted by the House. S. Rep. No. 403, 90th Cong. 1st Sess. 32-33 (1967).

3. Even in the two areas concededly reserved for Federal judgment by this legislation—the existence of "compelling and extraordinary" conditions and whether the standards are technologically feasible—Congress intended that the standard of EPA review of the state decision be a narrow one. This is implicit, of course, in the many statements in favor of state autonomy referred to above. More directly, Congressman Moss, the main sponsor of the language which the House adopted, asserted that under his language the burden of proof in denying a waiver would be on the Federal government, see H.R. Rep. No. 728, 90th Cong. 1st Sess. 96 (1967) (separate views of Congressman Moss and Van Deeren). See also 113 Cong. Rec. H 14398 (Cong. Hanna) (daily ed. Nov. 2, 1967) (Senate language says "You may go beyond the Federal statutes unless we find that there is no justification for your progress").

One Congressman indicated that a decision to deny waiver should be subject to considerably less deference on judicial review than the Administrative Procedure Act normally provides, a view which would necessarily imply that the agency discretion to deny waiver is considerably narrower than is its discretion to act or not act in other contexts. 113 Cong. Rec. H 14405 (Cong. Hollifield) (daily ed. Nov. 2, 1967).

EPA's approach to California waiver decisions in the past has been shaped by this Congressional intent. Thus, in grant-

¹ The legislative history does contain one statement that under the language adopted, the burden of proof would be on California. 113 Cong. Rec. H 14432 (daily ed. Nov. 2, 1967) (Cong. Harvey). However, since the statement was made by an opponent of that language and was designed to win votes by portraying the change it would make from the committee version as negligible, it is entitled to little weight under the normal rules of statutory construction.

ing a waiver to California in August of 1971 to establish an assembly-line test program, Mr. Ruckelshaus said:

The law makes it clear that the waiver request cannot be denied unless the specific findings designated in the statute can properly be made. The issue of whether a proposed California requirement is likely to result in only marginal improvement in air quality not commensurate with its cost or is otherwise an arguable unwise exercise of regulatory power is not legally pertinent to my decision under section 209, so long as the California requirement is consistent with section 202(a) and is more stringent than applicable Federal requirements in the sense that it may result in some further reduction in air pollution on California. 36 FR 17458 (August 31, 1971)

Accordingly, I do not view the arguments of increased cost* or fuel economy penalties, or only marginal improvements in air quality, advanced by some as arguments against the waiver, as controlling in my decision here. For similar reasons, I do not view the question whether the proposed California standards may result in an increase in emissions of sulfuric acid mist as controlling given the current state of our knowledge. The structure and history of the California waiver provision clearly indicate both a Congressional intent and an EPA practice of leaving the decision on ambiguous and controversial matters of public policy to California's judgment. As I indicated in my suspension decision, any assessment of the magnitude of the automobile sulfate risk and measures to deal with it clearly falls under that heading.

The core issue, then, is whether automobile companies—by whatever technology—will be able to satisfy the formal requirements of the regulations which California seeks to place upon them in the 1977 model year. Our discussion of that point is contained in the next section.

It is worth noting here, however, that even on this issue I would feel constrained to approve a California approach to the problem which I might also feel unable to adopt at the Federal level in my own capacity as a regulator. The whole approach of the Clean Air Act is to force the development of new types of emission control technology where that is needed by compelling the industry to "catch up" to some degree with newly promulgated standards. Such an approach to automotive emission control may be attended with costs, in the shape

*The issue was raised whether EPA is required to file an Inflation Impact Statement, pursuant to Executive Order 11821 and OMB Circular No. A-107, in conjunction with this decision. We have determined that none is required, for the waiver granted herein falls under the category of "Approval of State Actions," one of four categories of action which do not require IIS's under the Interim Procedures for Inflation Impact Statements issued internally within EPA on February 24, 1975, implementing section 8(b) (Interim Provision) of OMB Circular No. A-107. Approval of these exempt categories has been given by OMB and they are included in the final draft Guidelines now pending before OMB.

of a reduced product offering, or price or fuel economy penalties, and by risks that a wider number of vehicle classes may not be able to complete their development work in time. Since a balancing of these risks and costs against the potential benefits from reduced emissions is a central policy decision for any regulatory agency, under the statutory scheme outlined above I believe I am required to give very substantial deference to California's judgment on this score.

Findings. Having given due consideration to the record of the public hearing, all material submitted for that record, and other relevant information, I hereby make the following findings of fact.

1. The State of California had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles and new motor vehicle engines.

2. The California State emission standards applicable to 1977 model year light duty vehicles, when considered as a total regulatory program, including related assembly-line testing and enforcement procedures, are more stringent than the applicable Federal standards.

3. Compelling and extraordinary conditions continue to exist in the State of California. The testimony of the representatives of the Air Resources Board revealed that the State oxidant pollution problem, and particularly that of the South Coast Air Basin, continues to be the worst in the nation. The data presented demonstrates that the National Ambient Air Quality Standard for photochemical oxidant has been violated in the South Coast region at a substantially greater frequency and at significantly higher levels of concentration than in other major metropolitan areas of the country. Furthermore, the latest data reveal that, following an improvement between the years of 1967 and 1972, the trend reversed and the oxidant concentrations in the South Coast area have actually worsened during 1973 and 1974. The evidence thus graphically demonstrates that California is struggling with an air pollution problem of unique proportions, and that it is one which is not necessarily improving.

4. The California standards are consistent with section 202(a) of the Act, in that technology exists with which to meet them and adequate lead time is available in which to implement that technology. The testimony at the hearing on this issue varied somewhat from witness to witness.

General Motors stated that the standards as proposed could be met and that they were prepared to introduce and market a representative product line conforming with those standards in the California market in 1977. Ford, though somewhat less optimistic, said in its testimony that they opposed granting the waiver

not because the standards cannot be met on some cars. Particularly with a catalyst change, Ford believes that low standards at these levels are achievable

but at a penalty in first cost and fuel economy which they asserted was not justified. Some other manufacturers, such as Chrysler and American Motors, were in varying degrees more pessimistic about their ability to achieve these standards. All manufacturers asserted that compliance with the California standards could be accomplished only by paying penalties in the form of increased costs, restricted model lines, poorer fuel economy, and reduced driveability. However, no manufacturer stated that it would be forced out of the California market by the new standards.

On the other side, the California Air Resources Board presented a list of 29 engine families from the 1975 model year which, though not aimed at meeting standards as low as the ones for which waiver was sought, nevertheless did meet or almost meet them. Though most of these cars were imports (which account for some 30 percent of the market in California), Chrysler, Ford and GM were also represented. The Air Resources Board also presented a statement by one of its members, Dr. Robert Sawyer, Professor of Mechanical Engineering at Berkeley and a leading contributor to the latest report of the National Academy of Sciences on motor vehicle emissions, stating his conclusion that the standards could be met.

I have already determined in the March 5 suspension decision that emission standards of .41 gm/mi HC and 2.0 gm/mi NOx could be met nationwide in 1977. Since the legal test for California waiver is easier to satisfy, I believe I am at a minimum compelled to grant a waiver at these levels as a matter of law.

The question then centers around the California 1.5 gm/mi NOx requirement. The record reveals that no manufacturer disputed the fact that 1.5 gm/mi NOx could be met. The problem was meeting it together with the other standards. General Motors testified that both the .41 gm/mi HC and the 1.5 gm/mi NOx standards could be met through system optimization (i.e., achieving the proper balance between exhaust gas recirculation (EGR), spark advance and fuel/air ratio). Some manufacturers indicated, with lesser degrees of certainty, that they would employ similar system changes involving reoptimized EGR, spark control and air/fuel ratio to certify their vehicles to these standards. Other manufacturers indicated that systems utilizing start catalysts or three-way catalysts are under consideration. Ford did express concern that there may not be sufficient time remaining to perform the required recalibrations and still certify in time for the normal introduction date. However, they did not say that such recalibrations were not technically feasible.

On this record, and against the background of our suspension hearings, I cannot conclude that the California standards cannot be met. I am strengthened in this conclusion by two subsidiary factors.

(i) "Basic demand" can be met more easily in California, because California

sales comprise but 10 percent of the national total and thus there exists greater potential for "model switching." That is, there is a high probability that at least one model of one manufacturer's product line for each class of vehicle will be certified at the California standards. Since California's share of the national market is limited, manufacturers of certified vehicles will in all probability have enough production capacity available to satisfy California consumer demand for that class. Manufacturers of corresponding models which could not meet the California standards would then sell a higher percentage of their vehicles in the other 49 states because of the increased demand caused by the cars switched to California. (I am not deciding here that the "basic demand" test, as set out in the "International Harvester" decision, is applicable in the case of California waiver. However, I do believe that if the test were to be applied, it would not be applicable to its fullest stringency due to the degree of discretion given to California in policy areas, as discussed in the "Legal Criteria" section above.)

(ii) The lead time restrictions are not necessarily as severe as the manufacturers stated, for under California law, manufacturers may delay the introduction of 1977 model year vehicles until January 1, 1977. This could provide up to an additional four months of lead time, depending on presently planned introduction dates, in which to complete the certification procedures.

5. The hearing record allows several other findings which, while not controlling in this decision, do show some of its probable effects and therefore are included for informational purposes.

(i) According to the manufacturers' testimony, 1977 California cars can be expected to have increased initial and catalyst replacement costs over the 1975 California cars of from \$85 to \$275, depending on manufacturer and model.

(ii) The manufacturers also claimed that 1977 California cars can also be expected to achieve from 8 percent to 24 percent poorer fuel economy than the comparable 1975 versions.

(iii) Most, if not all manufacturers indicated that they will market a more restricted model line in California in 1977 than they presently can provide for the 1975 model year.

(iv) Most manufacturers believe that the system changes necessary to meet the 1977 California standards will result in poorer driveability.

(v) Representatives of the California automobile dealers believed that their business would suffer substantially as a result of a waiver. They felt that, because of increased cost, restricted product offering, and reduced performance and fuel economy, potential customers will be inclined to either purchase their 1977 vehicles in other states, or forego a purchase entirely and retain their older models.

IV Decision. Based upon the above stated findings, I hereby waive the application of section 209(a) to the State of California with respect to the follow-

ing identified State standards and test procedures, insofar as they apply to the 1977 and subsequent model years.

1. Section 1955.1, Title 13, California Administrative Code, as amended March 17, 1975, entitled "Exhaust Emission Standards and Test Procedures—1975 and Subsequent Model-Year Passenger Cars"; and

2. Section 2054, Title 13, California Administrative Code, as amended December 11, 1974, entitled "Assembly-Line or Pre-Delivery Test Procedures—1976 and Subsequent Model-Year Gasoline-Powered Passenger Cars and Light Duty Trucks".

In addition, I have made the following determinations with respect to other issues involving a California waiver question:

1. The waiver previously granted for 1976 model year light duty trucks (38 FR 30136, November 1, 1973) is deemed to extend to 1977 and subsequent model years inasmuch as the California 1976 and 1977 standards are identical;

2. The waiver previously granted for the California assembly-line test procedures, as they apply to the 1975 model year (38 FR 10317, April 26, 1973) is deemed to extend to the 1976 model year, inasmuch as the 1975 and 1976 California standards are identical;

3. The waiver previously granted for the original 1975 California heavy duty engine standards (36 FR 8172, April 30, 1971) is deemed to extend to the 1977 model year, inasmuch as the 1975 and 1977 standards are identical; and

4. The waiver referred to in 3, is deemed to extend to the alternative set of heavy duty engine standards of 1.0 HC, 25 CO and 7.5 NO_x, all in grams per brake horsepower-hour, for which waiver was requested on April 25, 1975, inasmuch as we find those standards to be more stringent than the comparable Federal standards.

Copies of the above standards and procedures are available for inspection at the Freedom of Information Center, Room 207, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Copies of the standards and procedures may also be obtained from the California Air Resources Board, 1025 P Street, Sacramento, California 95814.

Dated: May 20, 1975.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.75-13752 Filed 5-27-75; 8:45 am]

[FRL 379-4]

EDWARDS AQUIFER, SAN ANTONIO,
TEXAS

Public Hearing

On Thursday, March 6, 1975 there was published in the FEDERAL REGISTER (40 FR 10514) a notice that a petition had been received pursuant to section 1424 (e) of the Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93-523. The petition requested the Administrator of the Envi-

ronmental Protection Agency to determine that the Edwards Aquifer is the sole or principal source of drinking water for the San Antonio, Texas area which, if contaminated, would create a significant hazard to public health. Public comments, data, and references to relevant sources of information were requested to be submitted not later than May 5, 1975. The Agency indicated that it would consider holding a public hearing if there were significant public interest in such a hearing.

Since the publication of that notice, requests for a public hearing have been received, including a request from the Attorney General of the State of Texas. The Agency believes that there is significant public interest, and accordingly will hold a public hearing to consider whether or not the Administrator should make the requested determination. The hearing will be held at the following time, date and location:

| | |
|------------------------------------|--|
| June 4, 1975, 9:30 a.m., C.d.t. | Mission Room San Antonio Convention Center HemisFair Grounds San Antonio, Texas |
|------------------------------------|--|

Persons who wish to make statements at this hearing are urged to submit three written copies of their remarks at the time they are presented for inclusion in the record.

In order to ensure that all interested persons, including those who wish to appear at the hearing, have a full opportunity to present views and information, and to ensure as complete a record as possible, the Agency hereby extends the final date for the submission of written comments until June 18, 1975.

Dated: May 23, 1975.

CHARLES L. ELKINS,
Acting Assistant Administrator
for Water and Hazardous Materials.

[FR Doc.75-13933 Filed 5-27-75; 8:45 am]

[FRL 374-7]

IDENTIFICATION OF PRODUCTS AS MAJOR SOURCES OF NOISE

Report

The Noise Control Act of 1972 (Pub. L. 92-574, 86 Stat. 1234) established, by statutory mandate, a national policy "to promote an environment for all Americans free from noise that jeopardizes their health and welfare." The Act provides for a division of powers between the Federal and state and local governments in which the primary Federal responsibility is for noise source emission control. The states and other political subdivisions retain rights and authorities to establish and enforce controls on environmental noise through licensing, regulation, or restriction of the use, operation, or movement of noise sources and on the levels of noise permitted in their environments. As specified in the Noise Control Act of 1972, the first step toward promulgation of noise standards for new products is identification of those

products that are major sources of noise. Section 5(b) of the Act provides as follows:

"The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternate methods of noise control. The first such report shall be published not later than eighteen months after the date of enactment of this Act."

Section 6(a) (1) (C) sets out four categories of products that must be considered by the Administrator for noise regulation.

1. Construction equipment.
2. Transportation equipment (including recreational vehicles and related equipment).
3. Any motor or engine (including any equipment of which an engine or a motor is an integral part).
4. Electrical or electronic equipment.

On June 21, 1974 (39 FR 22297), the Administrator published the first report under section 5(b) identifying two products as major sources of noise: Medium and heavy duty trucks and portable air compressors. Proposed regulations have been published that would provide for the control of noise produced by these products. That report also listed a number of other candidates for possible future identification.

Approach used to assess environmental impact. To accomplish the broad intent of the Noise Control Act of 1972, the EPA has developed an overall framework for assessing the environmental impact of all the sources of environmental noise. The first step of this development was the Title IV report ("Report to the President and Congress on Noise," Doc. No. 92-63, 92nd Congress 2nd Session, February 1972), which provided an initial data base on noise reduction technology appropriate to various product types, environmental noise levels, and criteria related to public health and welfare. The second step was the publication of the "Criteria Document" ("Public Health and Welfare Criteria for Noise," EPA, July 27, 1973) as required by section 5(a) (1) of the Noise Control Act of 1972. The third step was the publication of the "Levels Document" ("Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety," EPA, March 1974) as required by section 5(a) (2).

The levels identified in the "Levels Document" are baseline target goals based on the risks to public health and welfare from noise pollution without regard for cost or technical feasibility. To identify the levels, EPA selected two cumulative energy measures for quantifying noise exposures that can be related to human response.

1. Leq, the A-weighted equivalent sound level (the source level in dBA conveying the same sound energy as the actual time-varying sound during a given period) was selected as

a descriptor of noise relative to long-term hazard to hearing.

2. Ldn, the day-night sound level (the 24 hour Leq with a 10 dBA penalty applied to the period from 10 p.m. to 7 a.m.) was selected as a descriptor of noise relative to interference with human activities, e.g., speech communication, sleep, and other factors that may lead to annoyance.

An abbreviated summary of the identified levels is given in Table 1.

TABLE 1.—Noise levels protective of health and welfare

| Human response | Leq | Ldn |
|---|-----|-----|
| Hearing loss (8 hr)..... | 75 | 75 |
| Hearing loss (24 hr)..... | 70 | 70 |
| Outdoor interference and annoyance..... | 55 | 55 |
| Indoor interference and annoyance..... | 45 | 45 |

Analytic procedures. The impact of an environmental noise has two basic dimensions: extensity and intensity. Extensity of impact is measured in terms of the numbers of people impacted regardless of the severity of the impact. Intensity, or severity, of an individual's impact is measured in terms of the level of the environmental noise.

For analytic purposes, it is desirable to have a single number representing the magnitude of the total noise impact in terms of both extensity and intensity in a specific environmental situation. With a single noise impact scale, changes in impact can be evaluated in terms of simple percentage changes from the initial value. This need led to the use by EPA of the Equivalent Noise Impact Analysis Method. An example showing the nature and use of the method is EPA's "Project Report, Noise Standards for Civil Subsonic Turbojet Engine-Powered Airplanes (Retrofit and Fleet Noise Level)", 16 December 1974, obtainable from the Environmental Protection Agency, Office of Noise Abatement and Control, 1921 Jefferson Davis Highway, Arlington, Va. 20460. In this method, the intensity of an environmental noise impact at a specific location is characterized by the Fractional Impact (FI).

The fractional impact of a noise environment on an individual as used by EPA is proportional to the amount (in decibels) that the noise level exceeds the appropriate level identified in the "Levels Document" as shown in Table 1. The fractional impact is zero when the noise level is at or below the identified level. The fractional impact rises to 1.0 at 20 decibels above the identified level and can exceed unity in situations in which the noise level exceeds 20 decibels above the identified level. The range from zero to 20 decibels above the criterion level represents the range between those noise levels that are totally acceptable and those noise levels that are totally unacceptable to the individual in terms of annoyance response and speech interference. The total Equivalent Noise Impact (ENI) is then determined by summing the individual fractional impacts for all people affected by the environment. In this counting, then, two people exposed to 10 decibels above the identified level (fractional impact = 0.5) would

be equivalent to one person exposed to 20 decibels above the identified level (fractional impact = 1.0). The ENI can thus be considered as the equivalent number of people 100 percent impacted by the noise environment.

To determine which sources ought to be identified for regulation, EPA considers their fractionally weighted noise impact. This measure includes both the intensity (loudness) and extensity (population affected) of noise source impact. Nevertheless, it cannot completely supplant the Administrator's judgment as to an appropriate sequence of noise source regulation. In addition, other factors such as necessary lead time for development of a regulation, voluntary industry noise standards, interrelationship of regulations, and relative availability of data can affect the sequence of identification.

Candidates for major noise sources. The noise impact method has been applied in analyses using available noise data on products and classes of products distributed in commerce, population exposure data in various locations, and "Levels Document" criteria to develop a list of product types for possible consideration for regulatory action. This list is reflected in Table 2. In applying judgment, as prescribed in section 5(b) of the Act, as to which of these product types warrant identification as major sources of noise, those candidates having cumulative noise levels in normal use contributing to environmental noise levels in excess of "Levels Document" criteria are considered major noise source candidates. Using the fractional noise impact technique and available data, further consideration is given to those candidates contributing the greatest impact. Both the contribution to outdoor environmental noise and the impact on passengers and operators are included in the analysis.

TABLE 2.—Possible Candidates for Noise Sources

SURFACE TRANSPORTATION

Automobiles (including sports cars, compact, and standard passenger cars)
Buses
Medium and Heavy Duty Trucks (already identified)
Light Trucks
Motorcycles
Railroad locomotives
Rapid Transit-rail
Special auxiliary equipment on trucks
Tires

AIR TRANSPORTATION (NOT CANDIDATES FOR SECTION 6 REGULATION)

Business jet aircraft
Commercial subsonic jet aircraft
Commercial supersonic jet aircraft
Helicopters
Propeller driven small airplanes
Short haul aircraft.

CONSTRUCTION/INDUSTRIAL EQUIPMENT

Air compressors (already identified)
Backhoes
Chain saws
Concrete vibrators
Cranes, derrick
Cranes, mobile
Dozers (track and wheel)

Engine driven industrial equipment
Generators
Graders
Loaders (track and wheel)
Mixers
Pavement breakers
Pavers
Pile drivers
Pneumatic and hydraulic tools
Power saws
Pumps
Rock drills
Rollers
Scrapers
Shovels

RECREATIONAL VEHICLES

Snowmobiles
Motorboats
Offroad motorcycles (including minicycles)
Other off highway vehicles

LAWN CARE

Edgers
Garden tractors
Hedge clippers
Home tractors
Lawn mowers
Snow and leaf blowers
Tillers
Trimmers

HOUSEHOLD APPLIANCES

Air conditioners
Clothes dryers
Clothes washers
Dehumidifiers
Dishwashers
Electric can openers
Electric heaters
Electric knives
Electric knife sharpeners
Electric shavers
Electric toothbrushes
Exhaust fans
Floor fans
Food blenders
Food disposals (grinders)
Food mixers
Freezers
Hair clippers
Hair dryers
Home shop tools
Humidifiers
Refrigerators
Sewing machines
Slide/movie projectors
Vacuum cleaners
Window fans

Identification of major noise sources. EPA hereby identifies the following products as major sources of noise in accordance with section 5(b) of the Noise Control Act of 1972: motorcycles, buses, wheel and track loaders and wheel and track dozers (earth moving equipment), truck transport refrigeration units, and truck-mounted solid waste compactors (special auxiliary equipment on trucks). Additional information, as prescribed in section 5(b)(2) of the Act, will be published in advance of rulemaking. For the products identified, this will include information on techniques for control of noise, available data on technology, costs, and alternate methods of noise control. Motorcycles, buses, wheel and track loaders and wheel and track dozers contribute significant impacts to outdoor environmental noise and on passengers/operators. Identification of special purpose truck equipment, such as transport refrigeration units and solid waste compactor units, provides for noise control

standards consistent with standards already proposed for new medium and heavy duty trucks. It is recognized that the noise impact from such special purpose equipment alone is of a lower order of magnitude. However, in view of the actions already taken to control noise emissions from medium and heavy duty trucks, control of these sources is required to avoid reducing the effectiveness of those regulations.

In the development of regulations for those products identified as major sources of noise, possible labeling requirements will be examined as well as noise control standards.

EPA will be selecting other products for future identification from among the large number of possible candidates listed in Table 2. The order in which they are identified will depend upon the various considerations discussed above, of which fractional noise impact is the major, but not exclusive, consideration. Automobiles and snowmobiles are currently under study. The size and complexity of the automotive industry and the extensive effort necessary to adequately evaluate cost and available technology make immediate regulation of automobile noise impossible. The EPA judgment to temporarily defer identification of snowmobiles takes into account consideration of voluntary standards being developed by the snowmobile industry. Major progress has been made in that regard, and continuing action is underway. EPA is in the process of evaluating this voluntary industry effort. In so doing, EPA is taking into account the fact that much of the noise impact associated with snowmobiles affects operators and passengers in recreational and other voluntary activities. EPA also is developing information on the need for labeling of snowmobiles under section 8 of the Act, working in conjunction with the Consumer Product Safety Commission.

EPA also intends to study during Fiscal Year 1976 light trucks, motorboats, chain saws, tires, pneumatic and hydraulic tools, pile drivers, lawn care equipment, and other special auxiliary equipment on trucks for possible future identification.

This report is issued under the authority of the Noise Control Act of 1972, section 5(b)(1), 86 Stat. 1236 (42 U.S.C. 4904(b)(1)).

Dated: May 20, 1975.

RUSSELL E. TRAIN,
Administrator.

[FR Doc. 75-13753 Filed 5-27-75; 8:45 am]

[FRL 379-8]

MUNICIPAL WASTE TREATMENT GRANTS

Public Hearings on Potential Legislative Amendments to the Federal Water Pollution Control Act

Notice was published in the FEDERAL REGISTER on May 2, 1975, (40 FR 19236), of a series of four public hearings to discuss possible Administration proposals to amend the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq.

The notice indicated that five papers would be prepared for public review prior to the public meetings. These papers are presented here with the intent that they assist in focussing discussion at the meetings. The papers do not encompass all the points that might be made on these candidate proposals and are not meant to confine the discussion.

Several background points should be considered when reviewing each of the five papers.

Papers 1, 2, 3. These papers discuss possible modifications to the present provisions of Title II of the Act which authorizes the construction grants program. They were developed after the 1974 Survey of State Needs indicated that approximately \$350 billion in municipal facility construction is needed to meet the requirements of the Act. The magnitude of this indicated need appears to be beyond the funding capability of the Federal budget, and proposals have been made to selectively reduce the need for Federal funds, without negating the major water quality objectives of the Act. These papers, in a summary fashion, present these proposals. These proposals have been previously discussed, in a preliminary way, with selected groups with whom the Agency frequently meets to discuss the implementation of the Act.

A groundrule observed in preparing these discussion papers has been that none of the proposals would retroactively apply to the \$18 billion presently authorized and allotted.

Paper 4. This paper discusses a proposed extension of the July 1977 date for compliance by municipal dischargers with the secondary treatment requirement established by section 301(b)(1)(B) of the Act. This proposal has been suggested previously and discussed with representatives of State agencies and several public groups.

Paper 5. This paper discusses a proposed amendment to the Act to authorize an increased delegation of responsibility to the States for managing the construction grants program. Amendments to achieve this objective have been introduced in the House of Representatives as H.R. 2175 and H.R. 6991 which are identical bills. EPA has generally endorsed these Amendments.

Dated: May 22, 1975.

EDWIN L. JOHNSON,
Acting Assistant Administrator
for Water and Hazardous Materials.

PAPER NO. 1—REDUCTION OF THE FEDERAL SHARE

Statement of Issue. This paper deals with the issue of whether Pub. L. 92-500 should be amended to reduce the Federal share for construction grants from the current level of 75 percent to a level as low as 55 percent.

The objectives of such an amendment would be twofold. The first is to permit the limited funding available to go further in assisting needed projects. The second objective is to encourage greater accountability for cost effective design and project management on the part of